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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,075	01/23/2002	Steven D. McNeil	3862 P 002	3351

7590 07/05/2005

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EXAMINER

NGUYEN, DINH Q

ART UNIT PAPER NUMBER

3752

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/057,075	MCNEIL, STEVEN D.	
	Examiner	Art Unit	
	Dinh Q. Nguyen	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 13 April 1958.

2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-7 and 10-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-7 and 10-23 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: lines 1 and 2, "using either an explosive munition" should read --using an explosive munition--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7, 10, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sewell et al. (U.S. No. 3,938,441).

Sewell discloses a method of controlling wildfire using C3, C4 or others well known explosive (see column 3, line 29) to create firebreaks by firing ordnance into the canopy and the explosive can be applied by an aircraft (see column 1, line 39- column 2, line 15).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, 11-13, 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell in view of Johnson (U.S. No. 4,616,711).

Sewell teaches all the limitations of the claims except for a firebreak line perpendicular to the approach fire. However, Johnson discloses a method of controlling and preventing the spread of forest fire by creating break fire line 22 perpendicular and both flanks of the approach fire A. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Sewell with a firebreak line perpendicular to the approach fire as suggested by Johnson. Doing so would provide an efficient way to fight fires (column 1, lines 39-56).

With respect to claims 4-6, to use a tank, a truck or a car as a way to deliver explosive is well known within the art, and it would have been an obvious matter of design choice to a person of ordinary skill in the art.

With respect to claims 19, 20, ordnances in the forms of missiles or bullets is well known within the art of ordnances, and it would have been an obvious matter of design choice to a person of ordinary skill in the art.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to show the art with respect to a method to fight fire: Sewell (U.S. Patent No. 3,720,166), and O'Dwyer.

### ***Response to Arguments***

7. Applicant's arguments filed 4/13/05 have been fully considered but they are not persuasive.

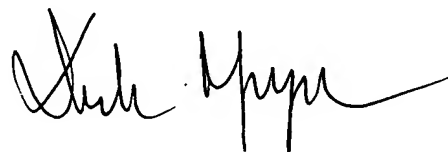
8. Applicant's arguments with respect to claims 1-7, 10-23 have been considered but are moot in view of the new ground(s) of rejection.

9. The indicated allowability of claims 5-7, and 11-17, 19-23 is withdrawn in view of the newly discovered reference(s) to Sewell et al. (U.S. No. 3,938,441). Rejections based on the newly cited reference(s) as indicated above.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q. Nguyen  
Primary Examiner  
Art Unit 3752